

House File 313 - Introduced

HOUSE FILE 313

BY HIGHFILL

A BILL FOR

1 An Act providing education savings grants for pupils attending
2 a nonpublic school or receiving competent private
3 instruction, establishing an education savings grant fund,
4 making appropriations, providing penalties, and including
5 applicability provisions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 12D.3, subsection 1, paragraph a, Code
2 2015, is amended to read as follows:

3 a. Each participation agreement may require a participant
4 to agree to invest a specific amount of money in the trust
5 for a specific period of time for the benefit of a specific
6 beneficiary. A participant shall not be required to make an
7 annual contribution on behalf of a beneficiary. The maximum
8 contribution that may be deducted for Iowa income tax purposes
9 shall not exceed two thousand dollars per beneficiary per year
10 adjusted annually to reflect increases in the consumer price
11 index. Contributions to an account that are moneys from an
12 education savings grant under section 257.11B shall not be
13 considered a contribution that may be deducted for Iowa income
14 tax purposes. The treasurer of state shall set an account
15 balance limit to maintain compliance with section 529 of the
16 Internal Revenue Code. A contribution shall not be permitted
17 to the extent it causes the aggregate balance of all accounts
18 established for the same beneficiary to exceed the applicable
19 account balance limit.

20 Sec. 2. Section 256.7, Code 2015, is amended by adding the
21 following new subsection:

22 NEW SUBSECTION. 33. Adopt rules relating to applications
23 for an education savings grant pursuant to section 257.11B,
24 including application processing timelines and information
25 required to be submitted by a parent or guardian.

26 Sec. 3. NEW SECTION. 257.11B Education savings grant
27 program.

28 1. Pupils eligible to enroll in grades kindergarten through
29 twelve and attending a nonpublic school or receiving competent
30 private instruction under chapter 299A shall be eligible to
31 receive an education savings grant in the manner provided in
32 this section for school years beginning on or after July 1,
33 2016. Education savings grants shall be made available to
34 parents and guardians in the manner authorized under subsection
35 4, paragraph "c", for the payment of qualified educational

1 expenses as provided in this section.

2 2. *a.* (1) By January 31 preceding the school year for
3 which the education savings grant is requested, the parent
4 or guardian of the pupil requesting to receive an education
5 savings grant shall submit an application to the department of
6 education, on application forms developed by the department,
7 indicating that the parent or guardian intends to enroll the
8 pupil in a nonpublic school or provide competent private
9 instruction for the pupil under chapter 299A.

10 (2) In addition to such information deemed appropriate by
11 the department of education, the application shall require
12 certification from the nonpublic school of the pupil's
13 enrollment for the following school year or a statement
14 indicating the parent or guardian's intent to provide or
15 arrange for competent private instruction for the pupil for the
16 following school year.

17 *b.* By March 1 preceding the school year for which the
18 education savings grant is requested, the department of
19 education shall notify the department of management of the
20 number of pupils in each school district designated for the
21 following school year to receive an education savings grant
22 and the amount of the education savings grant for each pupil.
23 The department of education shall also notify the parent
24 or guardian of such pupils who are approved to receive an
25 education savings grant.

26 *c.* Education savings grants shall only be approved for one
27 school year and applications must be submitted under paragraph
28 "*a*" for education savings grants in subsequent school years.

29 3. *a.* The department of management shall assign each pupil
30 an education savings grant in an amount equal to the statewide
31 average state foundation aid per pupil in the same school year.

32 *b.* The department of management shall on July 1 following
33 the determination of the amount of the education savings grant
34 for each approved pupil transfer such amounts to the pupil's
35 account in the education savings grant fund established under

1 subsection 4. Such amount shall be available to the pupil's
2 parent or guardian in the manner authorized under subsection
3 4, paragraph "c", for the payment of qualified educational
4 expenses incurred by such persons for the pupil during that
5 school year.

6 4. An education savings grant fund is created in the state
7 treasury under the control of the department of management
8 consisting of moneys appropriated to the department for the
9 purpose of providing education savings grants under this
10 section. For the fiscal year commencing July 1, 2016, and
11 each succeeding fiscal year, there is appropriated from the
12 general fund of the state to the department of management to be
13 credited to the fund the amount necessary to pay all education
14 savings grants approved for that fiscal year. The director of
15 the department of management has all powers necessary to carry
16 out and effectuate the purposes, objectives, and provisions of
17 this section pertaining to the fund, including the power to do
18 all of the following:

19 a. Make and enter into contracts necessary for the
20 administration of the fund.

21 b. Procure insurance against any loss in connection with the
22 assets of the fund or require a surety bond.

23 c. Contract with a private financial management firm to
24 manage the fund, in collaboration with the treasurer of state,
25 including providing for the disbursement of education savings
26 grants in the form of an electronic debit card or checks that
27 are payable directly from the pupil's account in the fund.

28 d. Conduct audits or other review necessary to properly
29 administer the program.

30 e. Adopt rules pursuant to chapter 17A for the
31 administration of the fund and accounts in the fund.

32 5. a. For each pupil approved for an education savings
33 grant, the department shall establish an account for that pupil
34 in the education savings grant fund. The amount of the pupil's
35 education savings grant determined under subsection 3 shall be

1 deposited into the pupil's account on July 1 and such amount
2 shall be immediately available for the payment of qualified
3 educational expenses incurred by the parent or guardian for
4 the pupil during that fiscal year using the payment method
5 authorized under subsection 4, paragraph "c".

6 **b.** A nonpublic school or other entity that accepts payment
7 from a parent or guardian using funds from a pupil's account in
8 the education savings grant fund shall not refund, rebate, or
9 share any portion of such payment with the parent, guardian, or
10 pupil.

11 **c.** Moneys remaining in a pupil's account upon conclusion
12 of the fiscal year shall remain in the pupil's account in the
13 education savings grant fund for the payment of qualified
14 educational expenses in future fiscal years or for the payment
15 of higher education costs under subsection 8.

16 **6.** For purposes of this section, "*qualified educational*
17 *expenses*" includes tuition and fees at a nonpublic school,
18 textbooks, fees or payments for educational therapies including
19 tutoring or cognitive skills training, curriculum fees and
20 materials for a course of study for a specific subject matter
21 or grade level, tuition or fees for nonpublic online education
22 programs, education materials and services for pupils with
23 disabilities including the cost of paraprofessionals and
24 assistants who are trained in accordance with state law,
25 standardized test fees, fees required by the department
26 not to exceed for each grant recipient five percent of the
27 total grant amount in any fiscal year, contributions to an
28 Iowa education savings plan trust account under chapter 12D,
29 contributions to a Coverdell education savings account under 26
30 U.S.C. §530, higher education expenses, as defined in section
31 12D.1, excluding room and board expenses, and other expenses
32 incurred by the parent or guardian that are directly related
33 to the education of the pupil at a nonpublic school, including
34 a nonpublic school accredited by an independent accrediting
35 agency approved by the department of education, or directly

1 related to providing competent private instruction for the
2 pupil under chapter 299A. The cost of one computer or other
3 portable computing device shall be allowed as a qualified
4 educational expense for a pupil if such a purchase has not been
5 made using funds from that pupil's account in either of the
6 two immediately preceding fiscal years. "*Qualified educational*
7 *expenses*" do not include transportation costs for the pupil, the
8 cost of food or refreshments consumed by the pupil, the cost of
9 clothing for the pupil, or the cost of disposable materials,
10 including but not limited to paper, notebooks, pencils, pens,
11 and art supplies.

12 7. A person who makes a false claim for the purpose
13 of obtaining an education savings grant provided for in
14 this section or who knowingly receives the grant or makes a
15 payment from an account in the education savings grant fund
16 without being legally entitled to it is guilty of a fraudulent
17 practice. The false claim for an education savings grant or a
18 payment from an account shall be disallowed and if amounts from
19 the grant have been disbursed from the applicable account in
20 the education savings grant fund, the department of management
21 shall initiate legal proceedings to recover such amounts. A
22 parent or guardian, or a pupil for purposes of subsection 8,
23 who violates this subsection is prohibited from participating
24 in the education savings grant program in the future.

25 8. For each pupil with a positive balance in the pupil's
26 account in the education savings grant fund upon graduation
27 from high school or completion of an equivalent level of
28 competent private instruction under chapter 299A, the
29 department of management shall maintain the account in the
30 fund until the pupil is twenty-five years of age. Following
31 graduation from high school until the pupil is twenty-five
32 years of age, moneys in the pupil's account may be used for
33 higher education costs, as defined in section 12D.1, subsection
34 2, incurred by the pupil while attending an institution of
35 higher education under the control of the state board of

1 regents, a community college located in this state, or a
 2 private college or university located in this state. Payments
 3 from a pupil's account for higher education costs shall be
 4 made in the same manner as payments for qualified educational
 5 expenses under subsection 5. Moneys in a pupil's account when
 6 the pupil turns twenty-five years of age shall be transferred
 7 by the department for deposit in the general fund of the state.

8 9. This section shall not be construed to authorize the
 9 state or any political subdivision of the state to exercise
 10 authority over any nonpublic school or pupil receiving
 11 competent private instruction under chapter 299A or construed
 12 to require a nonpublic school to modify its admissions or
 13 educational program in order to receive payment from a parent
 14 or guardian using funds from a pupil's account in the education
 15 savings grant fund. A nonpublic school or entity providing
 16 competent private instruction under chapter 299A, that accepts
 17 payment from a parent or guardian using funds from a pupil's
 18 account in the education savings grant fund is not an agent of
 19 this state or other political subdivision of this state. Rules
 20 adopted by the department to implement this section that impose
 21 an undue burden on a nonpublic school or entity providing
 22 competent private instruction under chapter 299A are invalid.

23 Sec. 4. Section 422.7, Code 2015, is amended by adding the
 24 following new subsection:

25 NEW SUBSECTION. 51. Subtract, to the extent included, the
 26 amount of any education savings grant under section 257.11B
 27 received during the tax year by a taxpayer authorized to spend
 28 such grant amounts for qualified educational expenses.

29 Sec. 5. APPLICABILITY. This Act applies to school budget
 30 years and fiscal years beginning on or after July 1, 2016.

31 Sec. 6. APPLICABILITY. The following provisions of this Act
 32 apply to tax years beginning on or after January 1, 2016:

- 33 1. The section of this Act amending section 12D.3.
- 34 2. The section of this Act amending section 422.7.

35 EXPLANATION

1 The inclusion of this explanation does not constitute agreement with
2 the explanation's substance by the members of the general assembly.

3 This bill provides education savings grants for pupils
4 attending a nonpublic school or receiving competent private
5 instruction and establishes an education savings grant fund.

6 Under the bill, pupils eligible to enroll in grades
7 kindergarten through 12 and attending a nonpublic school or
8 receiving competent private instruction under Code chapter
9 299A are eligible to receive an education savings grant for
10 school years beginning on or after July 1, 2016. By January 31
11 preceding the school year for which the education savings grant
12 is requested, the parent or guardian of the pupil requesting to
13 receive an education savings grant must submit an application
14 to the department of education indicating that the parent or
15 guardian intends to enroll the pupil in a nonpublic school or
16 provide competent private instruction for the pupil.

17 The bill requires that by March 1 preceding the school
18 year for which the education savings grant is requested,
19 the department of education must notify the department of
20 management of the number of pupils in each school district
21 designated for the following school year to receive an
22 education savings grant and the amount of the education savings
23 grant for each pupil. Education savings grants may only be
24 approved for one school year and applications must be submitted
25 for education savings grants in subsequent school years.

26 The amount of each education savings grant is equal to the
27 statewide average state foundation aid per pupil in the same
28 school year.

29 The bill creates an education savings grant fund in the state
30 treasury under the control of the department of management
31 consisting of moneys appropriated to the department for the
32 purpose of providing education savings grants. For the fiscal
33 year commencing July 1, 2016, and each succeeding fiscal year,
34 there is appropriated from the general fund of the state to the
35 department of management for deposit in the fund the amount

1 necessary to pay all education savings grants approved for
2 that fiscal year. For each pupil approved for an education
3 savings grant, the department of management must establish an
4 account for that pupil in the education savings grant fund.
5 The amount of the pupil's education savings grant is deposited
6 into the pupil's account on July 1 and such amount is available
7 for use by parents and guardians for the payment of qualified
8 educational expenses, as defined in the bill, incurred by the
9 parent or guardian for the pupil during that fiscal year.

10 The bill authorizes the department of education to
11 contract with a private financial management firm to manage
12 the education savings grant fund, in collaboration with the
13 treasurer of state, including providing for the disbursement
14 of education savings grants in the form of an electronic debit
15 card or checks that are payable directly from the pupil's
16 account within the fund.

17 The bill provides that moneys remaining in a pupil's account
18 upon the conclusion of the fiscal year shall remain in the
19 pupil's account within the education savings grant fund for
20 the payment of qualified educational expenses in future fiscal
21 years or for higher education costs as authorized in the bill.

22 Under the bill, for each pupil with a positive balance in
23 the pupil's account in the education savings grant fund upon
24 graduation from high school or completion of an equivalent
25 level of competent private instruction under Code chapter
26 299A, the department of management is required to maintain the
27 account in the fund until the pupil is 25 years old. Until
28 the pupil is 25 years old, moneys in the pupil's account may
29 be used by the pupil for higher education costs, as defined
30 in Code section 12D.1. Moneys in a pupil's account when the
31 pupil turns 25 years old are transferred by the department of
32 management for deposit in the general fund of the state.

33 The bill provides that a person who makes a false claim for
34 the purpose of obtaining an education savings grant or who
35 knowingly receives the grant or makes a payment from an account

1 within the education savings grant fund without being legally
2 entitled to it is guilty of a fraudulent practice and is
3 subject to a criminal penalty. The bill allows the department
4 of management to initiate legal proceedings to recover grants
5 and amounts improperly awarded or paid from accounts under the
6 bill.

7 The bill provides that moneys from an education savings
8 grant under the bill are not taxable income under Code chapter
9 422. In addition, the bill provides that contributions to an
10 Iowa education savings plan trust account under Code chapter
11 12D that are moneys from an education savings grant under the
12 bill are not considered a contribution that may be deducted for
13 Iowa income tax purposes.

14 The bill applies to school budget years and fiscal years
15 beginning on or after July 1, 2016.

16 The provisions of the bill amending Code sections 12D.3 and
17 422.7 apply to tax years beginning on or after January 1, 2016.